IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Revision No.779 of 2007
Date of decision: September 19, 2007.

Brij Raj Kishore

...**Petitioner(s)**

v.

State of Haryana

...**Respondent(s)**

CORAM:HON'BLE MR. JUSTICE SURYA KANT

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest.

Present: Shri G.C. Shahpuri, Advocate for the petitioner.

Shri Ravi Dutt Sharma, Deputy Advocate General, Haryana.

Shri Kapil Aggarwal, Advocate for the complainant.

ORDER

Surya Kant, J. - This Revision Petition is directed against the order dated 7.4.2007 passed by the learned Additional Sessions Judge, Jagadhari whereby an application moved by the complainant-petitioner under section 311 Cr.P.C. for summoning Ravinder Kumar and Jaspal Singh as additional prosecution witnesses, has been declined.

The facts may be noticed briefly.

As per the prosecution case, on 26.10.2002, deceased Girdhar Gopal was alleged to be present at his shop near new market, Yamuna Nagar when at about 3 p.m., the respondent-accused came and started quarreling with him by asking him to vacate the shop. They allegedly extended the threat and also alleged to have given beatings to the deceased Girdhar Gopal, who, thereafter, had consumed some poisonous substance.

Said Girdhar Gopal was rushed to the hospital where unfortunately at about 8 p.m. he died.

The subject FIR under section 306/34 IPC was registered on the statement of brother of the deceased.

The occurrence is alleged to have been witnessed by the mother of the deceased, namely, Smt. Raj Rani, who has already been examined by the prosecution as PW12.

Thereafter, the complainant moved an application under section 311 Cr.P.C. for summoning Ravinder Kumar and Jaspal Singh as additional witnesses, who are alleged to have witnessed the beatings and humiliation of the deceased at the hands of the accused persons. The aforesaid application, however, has been declined by the learned Additional Sessions Judge, giving rise to this revision petition.

The complainant (Brij Raj Kishore) appeared as PW3 and deposed that when reached in the hospital where Girdhar Gopal was got admitted, his brother told him that "he was fed up with the behaviour of both the accused" and he further told that on that day the accused "had picked up quarrel with him". He has not stated that the accused persons had either caused any beating or that Ravinder Kumar or Jaspal Singh were present at that time. Similarly, the mother of the deceased, Raj Rani, in her statement has deposed that when she reached at the spot, she found that the accused persons were "quarreling with my son and were asking him to vacate the shop. After their departure, my son started weeping....". She too has not said that the deceased was beaten up by the accused persons or that Ravinder Kumar and Jaspal Singh were present at that time.

Admittedly, as per the medico-legal report (Ex.PJ), no injury was found on the person of the deceased. Similarly, no such injury has been noticed in the post-mortem report (Ex.PD) also.

Ravinder Kumar who is sought to be summoned by the complainant, however, is stated to have given his affidavit (Annexure R-6) and in para 6 thereof, it is averred that, "the deponent saw that Raj Rani was making hue and cry for help and Sunil and Munish along with two strangers were giving beatings to Girdhar Gopal and were manhandling Girdhar Gopal and were abusing and were threatening to Girdhar Gopal".

Further, Ravinder Kumar is stated to be the neighbour of the deceased. However, as per the contents of the affidavit purported to have been give by him, he is running his business of transport in old Sabji Mandi and he is resident of Swapanpuri, Jagadhari whereas the deceased was running his shop in the New Market

It appears that the proposed witnesses are sought to be summoned by the complainant in order to improve the prosecution case. As may be noticed, the depositions made by Raj Rani and the averments made by Ravinder Kumar in his affidavit are totally inconsistent. The contents of the affidavit of Ravinder Kumar are also contrary to the medical evidence on record, therefore, the deposition of Ravinder Kumar, even if permitted, is not likely to provide any assistance to the court to arrive at a just conclusion.

No interference in the impugned order is called for.

Dismissed.

September 19, 2007. [**Surya Kant**]
kadyan **Judge**